

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHARLES BRETT, BUILDING)
INSPECTOR OF TOWN OF HAMILTON,)
Plaintiff,)

C.A. No. 05-11542 RGS

v.)

IRINA V. TEMKINA,)

Defendant.)

AFFIDAVIT OF DONNA BREWER MacKENNA

1. I am the attorney for plaintiff Charles Brett, Building Inspector of the Town of Hamilton and a member of the bar of this court.
2. This affidavit is submitted in support of plaintiff's Motion for Partial Summary Judgment.
3. Exhibit A is a true and correct copy of the State Building Code Appeals Board Appeal Application Form filed by Irina V. Temkina and dated November 9, 2005.
4. Exhibit B is a true and correct copy of the report of the Hamilton Fire Department dated February 28, 2006.
4. Exhibit C is a true and correct copy of the decision of the State Building Code Appeals Board dated April 6, 2006.
5. All of these documents were produced to me by the Deputy General Counsel of the Department of Public Safety in response to a request for production under the Public Records Act, G.L. c. 66, § 5A. See the true and accurate copy of the letter of

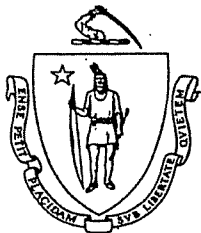
Todd M. Grossman, Deputy General Counsel, dated March 7, 2006, attached as Exhibit D.

SIGNED UNDER PENALTIES OF PERJURY THIS 20TH DAY OF
OCTOBER, 2006.

/s/ Donna Brewer MacKenna
DONNA BREWER MacKENNA

6134.22/396049

EXHIBIT A

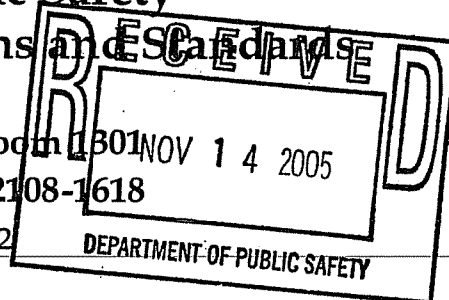


The Commonwealth of Massachusetts
Department of Public Safety
Board of Building Regulations and Standards

One Ashburton Place, Room 1301
 Boston, Massachusetts 02108-1618

Phone (617) 727-7532

Fax (617) 227-1754



STATE USE ONLY

Fee Received: 150.00

Check No.: 1118

Received By: P Barry

STATE BUILDING CODE APPEALS BOARD
APPEAL APPLICATION FORM

DOCKET NUMBER:

State Use Only

05-163

05193

46

DATE: 11/9/05

The undersigned hereby appeals to the State Board of Building Regulations and Standards from the decision of the:

Building Official from the City/Town of: Hamilton

Board of Appeals from the City/Town of:

Other Municipal Agency/Official entitled:

State Agency/Official entitled:

OTHER:

Dated: September 15 2005, *Order received by appellant on 09/26/05 (see attached) having been aggrieved by such (check as appropriate)

Interpretation ☐ Order ☒ Requirement ☐ Direction ☐

Failure to Act ☐ Other ☐ Explain _____

(This section must be completed or the application will be returned.)

Has the building\structure been the subject of an appeal by this or any other appeals board previous to this filing?
 If, yes, please indicate the date of the previous appeal, whether the matter was heard before a local or state appeals board, the code section that was at issue, and the specifics of the decision (i.e. a variance was granted\not granted).

No.

All appropriate code sections that are a subject of the appeal must be identified. All written supporting documentation must be submitted with this application. However, the Board reserves the right to continue the proceeding if such material warrants extensive review.

State briefly desired relief (additional information may be attached if space is not sufficient):

Hold that the front stairs and railings are in compliance with the
Building Code. Hold that the dwelling has an adequate number of smoke d
etectors (i.e. hold that smoke detectors are not required in the
bedrooms of the dwelling)

APPELLANT: Irina V. Temkina

REPRESENTING: Self

ADDRESS FOR SERVICE: 125 Neck Road, P.O. Box 4017

Old Lyme, CT 06371

Telephone No. (860) 597-3020

Fax Number: (860) 523-7989

ADDRESS OF SUBJECT PROPERTY: 521 Bridge Street

South Hamilton, MA 01982

APPELLANT'S CONNECTION TO SUBJECT PROPERTY:

Owner


SIGNATURE OF APPELLANT/REPRESENTATIVE

Irina V. Temkina
NAME - PLEASE PRINT)

Please return applications to:
Program Manager, Board of Appeals
Board of Building Regulations and Standards
One Ashburton Place, Room 1301
Boston, MA 02108-1618

DESCRIPTION OF BUILDING OR STRUCTURE RELATIVE TO THE MASSACHUSETTS STATE BUILDING CODE (7th EDITION): (Check as appropriate)

If the building is a One or Two Family Dwelling, proceed to section entitled "Brief Description of the Proposed Work". Do not complete the tables below for one and two family dwellings.

DESCRIPTION OF PROPOSED WORK (check all applicable)				
New Construction	Existing Building	Repair(s)	Alteration(s)	Addition
Accessory Bldg.	Demolition	Other Specify: _____		
Brief Description of Proposed Work:				

USE GROUP AND CONSTRUCTION TYPE					
USE GROUP (Check as applicable)				CONSTRUCTION TYPE	
A Assembly	A-1	A-2	A-3	1A	
	A-4	A-5		1B	
B Business				2A	
E Educational				2B	
F Factory	F-1	F-2		2C	
H High Hazard				3A	
I Institutional	I-1	I-2	I-3	3B	
M Mercantile				4	
R Residential	R-1	R-2	R-3	5A	
S Storage	S-1	S-2		5B	
U Utility	Specify: _____				
M Mixed Use	Specify: _____				
S Special Use	Specify: _____				
COMPLETE THIS SECTION IF EXISTING BUILDING UNDERGOING RENOVATIONS, ADDITIONS AND/OR CHANGE IN USE					
Existing Use Group: _____			Proposed Use Group: _____		
Existing Hazard Index (780 CMR 34): _____			Proposed Hazard Index (780 CMR 34): _____		

BUILDING HEIGHT AND AREA		
BUILDING AREA	Existing (if applicable)	Proposed
Number of Floors or stories include basement levels		
Floor Area per Floor (sf)		
Total Area (sf)		
Total Height (ft)		

Brief Description of the Proposed Work:

N/A No proposed work.

STATE BUILDING CODE APPEALS BOARD - SERVICE NOTICE

I, Irina V. Temkina, as for the

Appellant/Petitioner _____ in an appeal filed with the State

Building Code Appeals Board on 11/9/ 2005

HEREBY SWEAR UNDER THE PAINS AND PENALTIES OF PERJURY THAT IN ACCORDANCE WITH THE
~~PROCEDURES ADOPTED BY THE STATE BOARD OF BUILDING REGULATIONS AND STANDARDS~~
 AND SECTION 122.3.1 OF THE STATE BUILDING CODE, I SERVED OR CAUSED TO BE SERVED, A COPY
 OF THIS APPEAL APPLICATION ON THE FOLLOWING PERSON(S) IN THE FOLLOWING MANNER:

NAME AND ADDRESS OF
 PERSON/AGENCY SERVED

METHOD OF SERVICE

DATE OF SERVICE

Deb Paskowski, Assistant to
Charles Brett

In Person

11/8/05

Irina
 Signature APPELLANT/PETITIONER

On the Ninth Day of November 2005 PERSONALLY APPEARED

BEFORE ME THE ABOVE NAMED

Irina Temkina
 (Type or Print the Name of the Appellant)

AND ACKNOWLEDGED AND SWORE THE ABOVE STATEMENTS TO BE TRUE.

[Signature]
 NOTARY PUBLIC



JAMES MICHAEL KILMARTIN III
 Notary Public
 Commonwealth of Massachusetts
 My Commission Expires
 July 18, 2012

MY COMMISSION EXPIRES

Irina V. Temkina

125 Neck Road, Post Office Box 4017, Old Lyme, Connecticut 06371

Telephone/Facsimile: (860) 597-3020

E-mail: irina.temkina@uconn.edu

Re: Temkina v. Town of Hamilton Building Inspector

Dwelling: 521 Bridge Street, South Hamilton

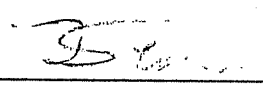
Date of Order: September 15, 2005


Date Order Received: September 26, 2005

**AFFIDAVIT WITH RESPECT TO RECEIPT OF BUILDING OFFICIAL'S
ORDER**

I, Irina V. Temkina, state that I received the Hamilton Building Inspector's order dated September 15, 2005 on September 26, 2005. I had been out-of-state, and was not able to review my mail until September 26, 2005.

Sworn to under pains and penalties of perjury this ~~eight~~^{ninth} day of November of the year 2005.


Irina V. Temkina

 JAMES MICHAEL KILMARTIN III
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 13, 2012

Irina V. Temkina

125 Neck Road, Post Office Box 4017, Old Lyme, Connecticut 06371

Telephone/Facsimile: (860) 597-3020

E-mail: irina.temkina@uconn.edu

November 8, 2005

Re: Temkina v. Town of Hamilton Building Inspector

Dwelling: 521 Bridge Street, South Hamilton

Date of Order: September 15, 2005

Date Order Received: September 26, 2005

MEMORANDUM IN SUPPORT OF APPEAL

This memorandum is submitted in support of the State Building Code Appeals Board Appeal.

On September 26, 2005, I received a communication dated September 15, 2005 from the Town of Hamilton Building Inspector, Charles Brett. The communication is attached hereto as Exhibit A. The communication alleged several "code violations." The following constitutes the basis for my appeal of Mr. Brett's order.

I. The Dwelling's Front Stairs and Railing Do Not Violate the Building Code

Mr. Brett alleges that "the front stairs from egress [are] improper... [t]he risers are of non-uniform height and too short. The top step has epoxy affixed to it that constitutes a tripping hazard... [t]he skim coat on the top step was improperly installed. The nosing represents a tripping hazard. The railing is particularly dangerous, with spacing of the balusters out of code, excessive spacing between the bottom of the railing and the top of the stairs, and bolts loose and inadequate, so that the entire railing can easily be wiggled and is inadequate to support someone's weight."

Mr. Brett also alleges that "when I conducted a viewing of the property last August, I observed the front stairs to be in an unacceptably dilapidated state, in violation of the state building code."

I dispute these allegations for the following reasons.

a. Mr. Brett did not allege that the front stairs "were in an unacceptably dilapidated state" or "in violation of the state building code" during his August 2004 inspection. Communication concerning the results of the August 2004 inspection is attached hereto as Exhibit B.

b. The dwelling was inspected by a HUD Housing Quality Standards inspector Stephen Bento on February 23, 2005 and the steps and railing were found to be in repair. Affidavit of HUD Inspector is attached hereto as Exhibit C.

c. The dwelling was inspected by a HUD Housing Quality Standards inspector Leo Panunzio on August 9, 2005 and the steps and railing were found to be in repair. HUD re-inspection report is attached hereto as Exhibit D.

d. An independent inspection confirms that the stairs satisfy 780 CMR 3603.13.2, Treads and risers:

"The maximum riser height shall be 8 1/4 inches (210 mm) and the minimum tread depth shall be nine inches (229 mm). The riser height shall be measured vertically between leading edges of the adjacent treads. The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The walking surface of treads and landings of a stairway shall be sloped no steeper than one unit vertical in 48 units horizontal (2% slope). The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm) and any two successive risers shall not deviate by more than 3/16-inch in height. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm) and any two successive treads shall not deviate in depth by more than 3/16-inch"

and 780 CMR 3603.13.2.1, Nosings:

"Nosings shall not project more than 1 1/2 inches beyond the face of the riser below."

The stairs are not otherwise improperly installed or represent a tripping hazard.

e. Mr. Brett cites no sections of the Code with respect to the railing, and his allegations are vague and do not state a violation of the Code. Mr. Brett does not even allege that railings are required under the Code. Nor does Mr. Brett cite a specific Code provision with respect to handrails. See e.g., 780 CMR 1615.5 (prescribing guardrail and handrail structural loading conditions); 780 CMR 1022.2 (prescribing handrail specifications).

The handrail does not violate the Code.

II. The Absence of Smoke Detectors in the Dwelling's Bedrooms Does Not Violate the Building Code

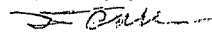
Mr. Brett alleges that there are no "smoke detectors in the bedrooms." Smoke detectors in bedrooms are required under the current State Building Code only in "one and two family dwellings...constructed" after 1998. 780 CMR 3603.16.1; See also September 1, 2004 State Fire Marshal Advisory, attached hereto as Exhibit E. Homes built prior to 1975 need comply only with G.L. c. 148 § 26E, which require smoke detectors "on each level

of habitation and on the basement level.” Exhibit E. The Board of Health may not “impose additional or differing smoke detector requirements.” 105 CMR 410.482.

The home was constructed in 1973. Assessor’s Field Card is attached hereto as Exhibit F.

Mr. Brett imposes the requirements of 780 CMR 3603.16.13 on the dwelling. That section states that “when one or more sleeping rooms are added or created in existing dwellings, the entire building shall be provided with smoke detectors designed and located as required for new dwellings.” No sleeping rooms have ever been added to the dwelling, which is and always has been a four bedroom property. See Exhibit F. The only alteration to the dwelling was a conversion of a garage to an office/workshop in May 1999. Building/Occupancy Permit B99-33 is attached hereto as Exhibit G. At that time the home was inspected and no smoke detector violations were found. See Exhibit G. Consequently, “the lack of installation of non required detectors” cannot serve as a basis for a violation “if the appropriate system has been installed.” Exhibit E.

Very truly yours,



Irina V. Temkina

EXHIBIT A



**Town of Hamilton
Building Department
577 Bay Road
Hamilton, MA 01936
978-468-5585**

September 15, 2005

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Irina V. Temkina
125 Neck Road
PO Box 4017
Old Lyme, CT 06371

Re: 521 Bridge Street
Code Violations

Dear Ms. Temkina:

This letter is in replacement of the letter sent to you on September 12, 2005. On September 12th, the following inspectors met at 521 Bridge Street to inspect the premises for building, electrical and plumbing/gas code violations:

Charles Brett-Building Inspector
Robert Brown-Electrical Inspector
William Thomas-Plumbing & Gas Inspector

The following are the code violations that were observed to exist:

Building Inspector:

Front stairs from egress improper. 780 CMR 3603.13.2(Treads and Risers) and 780 CMR 3603.13.2.1(Nosings). As you will recall, when I conducted a viewing of the property last August, I observed the front stairs to be in an unacceptably dilapidated state, in violation of the state building code. While the condition of the stairs has changed since then, it remains in a condition that is still in violation. The risers are of non-uniform height and too short. The top step has epoxy affixed to it that constitutes a tripping hazard. It appears that you attempted in the past to affix it in place with the epoxy and when that failed, the top was flipped over and the tread mortared in place with the old epoxy left on. The skim coat on the top step was improperly installed. The nosing represents a tripping hazard. The railing is particularly dangerous, with spacing of the balusters out of code, excessive spacing between the bottom of the railing and the top of the stairs, and bolts loose and inadequate, so that the entire railing can be easily wiggled and is inadequate to support someone's weight.

Inadequate number of smoke detectors. 780 CMR 3603.16.10, .13.

Inadequate number of smoke detectors. 780 CMR 3603.16.10, .13.

Electrical Inspector: There are no GFI outlets in the bathroom. *See* NEC Article 210.8. It is apparent that there has been work done in this room because a hole that was observed in August next to one of the outlets was no longer present at this latest inspection. When electrical work is performed in an area that is required by Code to have GFI outlets, the existing outlets must be upgraded to GFI outlets. This upgrade has not occurred.

The department is concerned that you have had electrical work done by a person for hire but without applying for an electrical permit, in violation of Mass. Gen. L. c. 143, § 3L. Although an electrician recently obtained a building permit to do work on the premises, the department is aware that earlier this summer you attempted to have electricians perform work but refused to apply for a permit, despite your tenant's insistence that a permit be obtained as required.

There is only one electrical meter located at this property. This is consistent with the zoning by-law, which prohibits the property from being rented out as more than one dwelling unit.

Plumbing/Gas Inspector:

Faulty mixing valve on shower. 248 CMR 10.10.4. The diverter button between the shower head and the faucet does not work properly.

The hot water heater was installed in a closet that was screwed shut. The closet door should be unscrewed so that inspectors and contractors may access the heater for maintenance, repair and inspection as needed. It is unsafe to leave the heater behind a door that is screwed shut.

I understand that the Health Agent has sent you a letter noting further violations within his purview. This letter is to be viewed in conjunction with those violations.

This inspection occurred at the request of your upper level tenant to follow up on zoning and building code violations that I first observed and notified you about last August. These violations should be corrected within 14 days from receipt of this letter. If you have any further questions, please feel free to contact this office.

Sincerely,



Charles Brett
Inspector of Buildings
Zoning Enforcement Officer

cc: Dawn Goodwin, Beverly Housing Authority
Lori Fonseca, NSCAP
Donna MacKenna, Town Counsel
Bd. Of Health

EXHIBIT B



**Town of Hamilton
Building Department
577 Bay Road
Hamilton, MA 01982
978-468-5585**

COPY

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 19, 2004

Elliot Temkin
Irina Temkina
50 Waterside Lane
West Hartford, Ct 06107

Dear Sir/Madam:

Please be advised that the property located at 521 Bridge Street, Hamilton, MA., is in violation of several by-law and life safety codes:

Some of which include:

- Means of Egress (Blocked)
- Smoke Detectors
- Water Supply
- Electrical Violations
- Hand Rails by Main Egress
- Number of Bedrooms exceeds Title V System
- Illegal Apartment, No Special Permit Obtained from Zoning Board of Appeals
- No Anti-Scald Valve in Upstairs Apartment
- No GFI Outlets in Bathrooms with Hole Cut in Wall Next to Outlet
- Non Payment of Municipal Tax and Water Bills

It is my intention as Zoning Enforcement Officer and Building Inspector to issue a **CEASE & DESIST** order, and to have the premises vacated by next Tuesday, August 24, 2004. I have advised your tenants to withhold payment of rent until this matter is concluded.

Contact this office immediately so that these unsafe conditions can be corrected.

Regards,



Charles Brett
Inspector of Buildings
Zoning Enforcement Officer

Cc: Board of Health
Fire Department
Police Department
Board of Selectmen
Zoning Board of Appeals

Enclosures

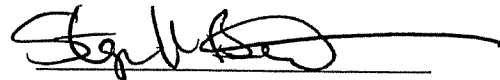
EXHIBIT C

Statement of Stephen M. Bento

I, Stephen M. Bento, swear and affirm that I am a certified Housing Quality Standards Inspector. I have received my training through Mann-McKay. I was employed as Housing Quality Standards Inspector by PHI Inspections, Plymouth, Massachusetts through June 2005. In this capacity, I have conducted HQS inspections for public housing authorities throughout the Commonwealth of Massachusetts.

I inspected Rhonda Baker's unit at 521 Bridge Street, South Hamilton on February 16, 2005 and February 23, 2005. I am familiar with the unit, having inspected it on two occasions prior to February of 2005. The unit passed inspection on February 23, 2005, after the owner corrected minor defects which existed on February 16, 2005, consisting of ripped screens and unfinished surfaces. On February 23, 2005, Ms. Baker's unit was in full compliance with HQS, and I reported this to the Beverly Housing Authority.

Sworn to under pains and penalties of perjury this 11th day of September, 2005.



Stephen M. Bento
33 West Avenue
Kingston, MA 02364
(781) 582-0670 (telephone)
(339) 832-3087 (cellular)

NAME OF FAMILY Rhonda Baker		PHONE NO. 209-852-2446		TENANT I.D. NO.	
INSPECTOR PHI INSPECTIONS		NEIGHBORHOOD/CENSUS TRACT		DATE OF INSPECTION 2/16/05	
TYPE OF INSPECTION <input checked="" type="checkbox"/> Initial <input type="checkbox"/> Special <input type="checkbox"/> Annual <input type="checkbox"/> Other				DATE OF LAST INSPECTION	

A - GENERAL INFORMATION					
STREET 521 Bridge St	CITY South Hamilton	COMMENTS: OVERALL COND. is GOOD.		HOUSING TYPE (Check as appropriate) <input type="checkbox"/> Single Family Detached <input type="checkbox"/> Semi-Detached <input checked="" type="checkbox"/> Row House/Town House/Duplex <input type="checkbox"/> Low Rise <input type="checkbox"/> High Rise w/elevator <input type="checkbox"/> Manufactured <input type="checkbox"/> Other	
COUNTY Ma	STATE Ma	ZIP 01982			
NAME OF OWNER OR AGENT AUTHORIZED TO LEASE UNIT INSPECTED Lina Temkina		PHONE NO. 860 451-5359			
ADDRESS OF OWNER OR AGENT 45 Seminary Rd Simsbury, Ct 06070					

B - SUMMARY DECISION ON UNIT (To be completed after form has been filled out)					
<input checked="" type="checkbox"/> Pass <input checked="" type="checkbox"/> Fail <input type="checkbox"/> Inconclusive PASS 2/23/05 SB		Number of Bedrooms for Purposes of the FMR or Payment Standard		Number of Sleeping Rooms 4	

INSPECTION CHECKLIST						
ITEM NO.	1 - LIVING ROOM	YES PASS	NO FAIL	IN CONC.	COMMENT	FINAL APPROV. INITIAL/DATE
1.1	Living Room Present	/				
1.2	Electricity	/				
1.3	Electrical Hazards	/				
1.4	Security	/				
1.5	Window Condition	/				
1.6	Ceiling Condition	/				
1.7	Wall Condition	/				
1.8	Floor Condition	/				
1.9	Lead-Based Paint <small>Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 1% of a component?</small>				HARWOOD GOOD <input checked="" type="checkbox"/> Not Applicable	
ITEM NO.	2 - KITCHEN	YES PASS	NO FAIL	IN CONC.	COMMENT	FINAL APPROV. INITIAL/DATE
2.1	Kitchen Area Present	/				
2.2	Electricity	/				
2.3	Electrical Hazards	/				
2.4	Security	/				
2.5	Window Condition	/				
2.6	Ceiling Condition	/				
2.7	Wall Condition	/				
2.8	Floor Condition	/				
2.9	Lead-Based Paint <small>Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 1% of a component?</small>				DIN GIP <input checked="" type="checkbox"/> Not Applicable	
2.10	Stove or Range with Oven	/				
2.11	Refrigerator	/				
2.12	Sink	/				
2.13	Space for Storage and Preparation of Food	/				
ITEM NO.	3 - BATHROOM	YES PASS	NO FAIL	IN CONC.	COMMENT	FINAL APPROV. INITIAL/DATE
3.1	Bathroom Present	/				
3.2	Electricity	/				
3.3	Electrical Hazards	/				
3.4	Security	/				
3.5	Window Condition	/				
3.6	Ceiling Condition	/				
3.7	Wall Condition	/				
3.8	Floor Condition	/				
3.9	Lead-Based Paint <small>Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 1% of a component?</small>				VINYL GOOD <input checked="" type="checkbox"/> Not Applicable	
3.10	Flush Toilet in Enclosed Room in Unit	/				
3.11	Fixed Wash Basin or Lavatory in Unit	/				
3.12	Tub or Shower in Unit	/				
3.13	Ventilation	/				
ITEM NO.	4 - OTHER ROOMS USED FOR LIVING AND HALLS	YES PASS	NO FAIL	IN CONC.	COMMENT	FINAL APPROV. INITIAL/DATE
4.1	Room Code* and Room Location				(Circle One) Right/Center/Left (Circle One) Front/Center/Rear Floor Level	
4.2	Electricity/Illumination	/				
4.3	Electrical Hazards	/				
4.4	Security	/				
4.5	Window Condition	/				
4.6	Ceiling Condition	/				
4.7	Wall Condition	/				
4.8	Floor Condition	/				
4.9	Lead-Based Paint <small>Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 1% of a component?</small>				MISSING SCREEN CARPET GOOD <input checked="" type="checkbox"/> Not Applicable	

*ROOM CODES 1 = Bedroom or any other room used for sleeping (Regardless of type of room) 3 = Second Living Room, Family Room, Den, Playroom, TV Room .5 = Additional Bathroom
2 = Dining Room, or Dining Area 4 = Entrance Halls, Corridors, Halls, Staircases 6 = Other

ITEM NO.	OTHER ROOMS TESTED FOR LEAD-BASED PAINT	YES	NO	REMARKS	FINAL APPROVAL INITIAL/DATE
4.1	Room Code* and Room Location	<input type="checkbox"/>	(Circle One) Right/Center/Left	(Circle One) Front/Center/Rear	Floor Level
4.2	Electricity/Illumination	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.3	Electrical Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.4	Security	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.5	Window Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.6	Ceiling Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.7	Wall Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.8	Floor Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 1% of a component?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.1	Room Code* and Room Location	<input type="checkbox"/>	(Circle One) Right/Center/Left	(Circle One) Front/Center/Rear	Floor Level
4.2	Electricity/Illumination	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.3	Electrical Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.4	Security	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.5	Window Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.6	Ceiling Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.7	Wall Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.8	Floor Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 1% of a component?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.1	Room Code* and Room Location	<input type="checkbox"/>	(Circle One) Right/Center/Left	(Circle One) Front/Center/Rear	Floor Level
4.2	Electricity/Illumination	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.3	Electrical Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.4	Security	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.5	Window Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.6	Ceiling Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.7	Wall Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.8	Floor Condition	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4.9	Lead-Based Paint Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed two square feet per room and/or is more than 1% of a component?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<p>*ROOM CODES 1 = Bedroom or any other room used for sleeping (Regardless of type of room) 3 = Second Living Room, Family Room, Den, Playroom, TV Room 5 = Additional Bathroom 2 = Dining Room, or Dining Area 4 = Entrance Halls, Corridors, Halls, Staircases 6 = Other</p>					
5.1	NONE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.2	Security	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.3	Electrical Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5.4	Other Potentially Hazardous Features in any of These Rooms	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.1	Condition of Foundation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.2	Condition of Stairs, Rails, and Porches	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.3	Condition of Roof and Gutters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.4	Condition of Exterior Surfaces	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.5	Condition of Chimney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.6	Lead Paint: Exterior Surfaces Are all painted surfaces free of deteriorated paint? If not, do deteriorated surfaces exceed 50 square feet of a total exterior surface area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.7	Manufactured Homes: Tie Downs	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6.8	Manufactured Homes: Smoke Detectors	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7.1	Adequacy of Heating Equipment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7.2	Safety of Heating Equipment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7.3	Ventilation/Cooling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7.4	Water Heater	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7.5	Approvable Water Supply	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7.6	Plumbing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7.7	Sewer Connection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.1	Access to Unit	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.2	Fire Exits	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.3	Evidence of Infestation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.4	Garbage and Debris	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.5	Refuse Disposal	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.6	Interior Stairs and Common Halls	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.7	Other Interior Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.8	Elevators	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.9	Interior Air Quality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.10	Site and Neighborhood Conditions	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.11	Smoke Detectors on Every Level	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8.12	Lead Paint: Owner Certification	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<p>8.12 LEAD PAINT: OWNER CERTIFICATION If the owner is required to correct any lead-based paint hazards at the property including deteriorated paint or other hazards identified by a visual assessor, a certified lead-based paint risk assessor, or certified lead-based paint inspector, the PHA must obtain certification that the work has been done in accordance with all applicable requirements of 24 CFR Part 35. The Lead-Based Paint Owner Certification must be received by the PHA before the execution of the HAP contract or within the time period stated by the PHA in the owner HQS violation notice. Receipt of the completed and signed Lead-Based Paint Owner Certification signifies that all HQS lead-based paint requirements have been met and no re-inspection by the HQS inspector is required.</p>					

Tenant Signature

Date

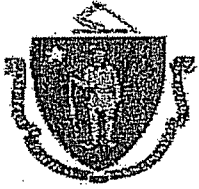
Landlord/Agent Signature

Date

Inspector's Signature

Date

EXHIBIT B



Hamilton Fire Department
265 Bay RD
Hamilton, MA 01982

FIRE & LIFE SAFETY
INSPECTION

NOTICE OF VIOLATION

Inspection Notice CONSULTATION - Fire Alarm

EX #3

February 28, 2006

521 Bridge Street
521 BRIDGE ST

Occupancy ID: BRID0521

Hamilton, MA 01982

An inspection of your facility on February 28, 2006 revealed the violations listed below.

In accordance with Massachusetts General Laws (MGL), (Terr. Ed. as amended) Chapter 148,
Sections 9, 10, 10B, 15, 38D, 38E, 38G, 38H,
and Board of Fire Prevention regulation, 527 CMR Code of Massachusetts Regulation as amended

We will re-inspect for compliance on/or after

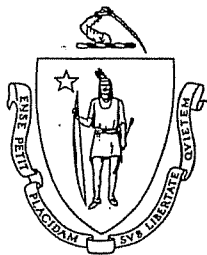
Code	Location	Number
148.28.A Violation of Building Code	148	28.A
The head of the fire department or any person designated by him who, in the performance of his official duties, observes any condition which he believes to be a violation of any provision of the state building code or any amendments thereto, shall report the same to the authority charged with the enforcement of such provision.		
1.06.5 Building Code Violations	1.06	5
The head of the fire department or any person designated by him who, in the performance of his official duties, observes any condition which he believes to be a violation of any provision of 780 CMR, shall report the same to the authority charged with the enforcement of such provision. (M.G.L. c. 148, § 28A).		
Upon a request of the owner an inspection was conducted on 28-2-06, it was discovered that there was a fifth (5) bedroom located on the lower level off the large room left of the base of the staircase. There was also a second kitchen located in the lower level. At this time I am in the opinion that this is set-up as a two (2) family dwelling. This would require at a minimum hard wired interconnected smoke detectors on all levels and outside the bedroom areas, and possibly in every bedroom.		

Parsons, Daniel E
Inspector

For your records

Irina Temkina
Occupant/Manager/Owner

EXHIBIT C



Mitt Romney
Governor

Kerry Healey
Lieutenant Governor

Robert C. Haas
Secretary

The Commonwealth of Massachusetts

Department of Public Safety

Board of Building Regulations and Standards

One Ashburton Place, Room 1301

Boston, Massachusetts 02108-1618

Phone (617) 727-3200

Fax (617) 227-1754

Thomas G. Gatzunis, P.E.
Commissioner

Gary Moccia
Chairman

Stanley Shuman
Vice Chairman

Robert Anderson
Deputy Administrator

STATE BUILDING CODE APPEALS BOARD

Date: April 6, 2006

Name of Appellant: Irina Temkina
Service Address: 125 Neck Road, P.O. Box 4017
Old Lyme, CT. 06371

In reference to:
Docket Number: 05-193

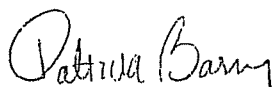
Property Address: 10 Industrial Court
Seekonk, MA. 02771

Date of Hearing: February 28, 2006

We are pleased to enclose a copy of the decision relative to the above case wherein certain variances from the State Building Code had been requested.

Sincerely:

STATE BUILDING CODE APPEALS BOARD


Patricia Barry, Clerk

cc: State Building Code Appeals Board
BBRS Program Manager

**COMMONWEALTH OF MASSACHUSETTS
BUILDING CODE APPEALS BOARD**

In the Matter of: 528 Bridge Street, South Hamilton, MA

Docket Number: 05-193

Appellant: Irina Temkina

Hearing Date: February 28, 2006

Present: Irina Temkina, Elliott Tiomkin, Charles Brett, Debra Paskowski,
Keith Hoyle, Harry Smith, Brian Gale and Patricia Barry

INTRODUCTION

Pursuant to M.G.L. Ch. 143, section 100, M.G.L. Ch. 30A, and 801 CMR 1.02 and 1.03, a hearing was held before the Building Code Appeals Board (the "Board") in Wellesley, Massachusetts on February 28, 2006, to consider the appeal of Irina Temkina (hereinafter referred to as "Appellant"). The Appellant, the Hamilton Building Commissioner and the Hamilton Fire Department were notified of the hearing by first class mail sent February 16, 2006.

All witnesses were duly sworn at the start of the hearing. The proceedings were recorded, and the digital sound recording of the proceeding is available at the Office of the Board, in the Department of Public Safety, upon request and reasonable advance notification. The following findings and conclusions are based upon the testimony and documents offered by the witnesses, as well as the administrative records of the Board.

FINDINGS OF FACT

1. The Appellant is Irina Temkina, having an address of 125 Neck Street, Old Lyme, Connecticut.
2. The property affected by this Decision is located at 521 Bridge Street in Hamilton, Massachusetts.
3. Appellant is appealing a finding of Building Code Violations made by the Building Department from the Town of Hamilton dated September 15, 2005. They were: improper egress on front stairs as to treads and risers (780 CMR (Sixth Edition) section 3603.13.2), improper nosings (section 3603.13.1), lack of proper handrail (section 3603.14.1.1), and inadequate number of smoke detectors on site (section 3603.16.10).

4. The property is a residence owned by the Appellant which is presently being leased to a single family, i.e., a mother and her three children.

5. Appellant and her family lived at the premises for a time in 1999. Prior to moving out, the Appellant caused to be converted the garage into a kitchen and a room described by the Appellant's son as an "office workshop."

6. Notwithstanding the sugar coating, the "office workshop" was used as a bedroom while the Appellant rented out the premises to two separate tenants, the "upstairs" tenant and the "downstairs" tenant, for an approximate one-year period.

7. It is Appellant's view now that whatever conditions existed in the past, in its present incarnation, the premises are being used as a single-family residence.

8. With respect to the issue of the stairs, the testimony of the Appellant's son was self-contradictory. He testified that when they first purchased the house, there was no railing on the exterior stairway. He then testified that "we" removed the railing because it was improperly installed. Photographs from 2004, show a railing on one side of the stairway, but a photograph of the stairway as it currently exists shows no railing.

9. A report from the Hamilton Fire Department dated February 28, 2006 (the same day that the hearing was conducted), states that as of the day of the inspection "it was discovered that there was a fith (sic) (5) bedroom located on the lower level off the large room left of the base of the staircase. There was also a second kitchen located in the lower level." The conclusion of the inspector of the Hamilton Fire Department was "that this was set-up as a two (2) family dwelling. This would require at a minimum hard wired interconnected smoke detectors on all levels and outside the bedroom areas, and possibly in every bedroom."

CONCLUSION AND ORDER

While the Hamilton Fire Department is in no better position than the Building Department to make a finding of fact concerning whether a structure is useable as a two-family dwelling, the report of February 20, 2006, simply confirms the testimony of the Appellant's son that at times in the past there were two separate tenants leasing this structure. The Appellant did not offer any testimony as to what the reason would be for the addition of a kitchen to a structure that previously functioned as a single-family residence, other than, which the Board infers, for the creation of a second rental unit. The railing on the stairway which was observed by the Building Department on September 12, 2005, to be "particularly dangerous, with spacing of the ballusters out of code, excessive spacing between the bottom of the railing and the top of the stairs, and bolts loose and inadequate, so that the entire railing can be easily wiggled and is inadequate to support someone's weight," was simply removed by the Appellant prior to the time that the inspection was made and the hearing was conducted. That is not an adequate response to

the violation notice.

Accordingly, upon motion made and duly seconded it was unanimously:

Voted, to uphold the order of the Inspector of Buildings dated September 15, 2005, with respect to the inadequacy of the front stairs concerning treads and risers (780 CMR (Sixth Edition) 3603.13.2), nosings (Section 3603.13.2.1), and handrail (Section 3603.14.1.1), and also based on the inadequate number of smoke detectors in accordance with Section 3603.16.10, 13.

SO ORDERED,



KEITH HOYLE



BRIAN GALE

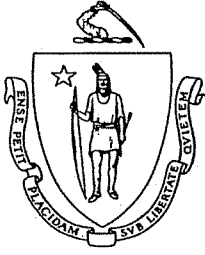


HARRY SMITH

DATED: April 6, 2006

In accordance with MGL, Chapter 30A, Section 14, any person aggrieved by this decision may appeal the decision to a court of competent jurisdiction within 30 days.

EXHIBIT D



Mitt Romney
Governor

Kerry Healey
Lieutenant Governor

The Commonwealth of Massachusetts

Department of Public Safety

*One Ashburton Place, Room 1301
Boston, Massachusetts 02108-1618*

Phone (617) 727-3200

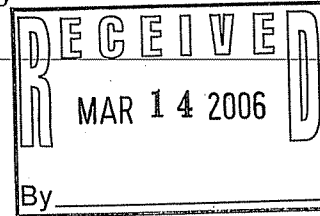
Fax (617) 727-5732

Edward A. Flynn
Secretary

Thomas G. Gatzunis, P.E.
Commissioner

March 7, 2006

Donna Brewer MacKenna
Casner & Edwards, LLP
303 Congress Street
Boston, MA 02210



Re: Public Records Request

Dear Ms. MacKenna,

Enclosed please find documents responsive to your request for a copy of the file on Massachusetts State Building Code Appeal #05-193 regarding 521 Bridge Street, So. Hamilton, MA.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd M. Grossman".

Todd M. Grossman
Deputy General Counsel